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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 001005281-0369-02]

RIN 0648-XC570

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic;
2013 Commercial Accountability Measure and Closure for Coastal
Migratory Pelagic Resources of the Gulf of Mexico and South
Atlantic

AGENCY: National Marine Fisheries Service (NMFS), National
Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; closure.

SUMMARY: NMFS implements an accountability measure (AM) to
close the hook-and-line component of the commercial sector for
king mackerel in the southern Florida west coast subzone. This
closure is necessary to protect the Gulf of Mexico (Gulf) king
mackerel resource.

DATES: This rule is effective 12:01 a.m., local time, March 17,
2013, through June 30, 2013.

FOR FURTHER INFORMATION CONTACT: Steve Branstetter, telephone
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SUPPLEMENTARY INFORMATION: The fishery for coastal migratory

pelagic fish (king mackerel, Spanish mackerel, and cobia) is managed under the Fishery Management Plan for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic (FMP). The FMP was prepared by the Gulf of Mexico and South Atlantic Fishery Management Councils (Councils) and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

On April 27, 2000, NMFS implemented the final rule (65 FR 16336, March 28, 2000) that divided the Florida west coast subzone of the Gulf eastern zone into northern and southern subzones, and established their separate commercial annual catch limits (ACLs), equal to commercial quotas. The 2012 to 2013 fishing year ACL (quota) for the hook-and-line component of the commercial sector for king mackerel in the southern Florida west coast subzone is 607,614 lb (275,609 kg) (50 CFR 622.42(c)(1)(i)(A)(2)(i)).

The Florida west coast subzone is that part of the eastern zone located south and west of 25°20.4' N. lat. (a line directly east from the Miami-Dade/Monroe County, FL boundary) along the west coast of Florida to 87°31'06' W. long. (a line directly south from the Alabama/Florida boundary). The Florida west coast subzone is further divided into northern and southern

subzones. From November 1 through March 31, the southern subzone is designated as the area extending south and west from 25°20.4' N. lat. to 26°19.8' N. lat. (a line directly west from the Lee/Collier County, Florida, boundary), i.e., the area off Collier and Monroe Counties. Beginning April 1, the southern subzone is reduced to the area off Collier County, Florida, between 25°48' N. lat. and 26°19.8' N. lat.

On March 12, 2013, NMFS implemented a 500-lb (227-kg) trip limit for vessels in the hook-and-line component of the commercial sector for king mackerel in or from the EEZ in the southern Florida west coast subzone (78 FR 15642, March 12, 2013).

Under 50 CFR 622.43(a), NMFS is required to close any component of the king mackerel commercial sector when its ACL (quota) has been reached, or is projected to be reached, by filing a notification at the Office of the Federal Register. NMFS has determined the ACL (quota) for hook-and-line component of the commercial sector for Gulf migratory group king mackerel in the southern Florida west coast subzone will be reached by March 17, 2013. Accordingly, the hook-and-line component of the commercial sector for Gulf migratory group king mackerel in the southern Florida west coast subzone is closed effective 12:01 a.m., local time, March 17, 2013, through June 30, 2013, the end

of the fishing year.

During the closure period, no person aboard a vessel for which a commercial permit for king mackerel has been issued may use hook-and-line gear to harvest or possess Gulf migratory group king mackerel in or from Federal waters of the closed subzone. There is one exception, however, for a person aboard a charter vessel or headboat. A person aboard a vessel that has a valid charter/headboat permit and also has a commercial king mackerel permit for coastal migratory pelagic fish may continue to retain king mackerel in or from the closed subzone under the 2-fish daily bag limit, provided the vessel is operating as a charter vessel or headboat. Charter vessels or headboats that hold a commercial king mackerel permit are considered to be operating as a charter vessel or headboat when they carry a passenger who pays a fee or when more than three persons are aboard, including operator and crew.

Classification

The Regional Administrator, Southeast Region, NMFS, has determined this temporary rule is necessary for the conservation and management of the Gulf king mackerel resource and is consistent with the Magnuson-Stevens Act and other applicable laws.

This action is taken under 50 CFR 622.43(a) and is exempt

from review under Executive Order 12866.

These measures are exempt from the procedures of the Regulatory Flexibility Act because the temporary rule is issued without opportunity for prior notice and comment.

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, (AA), finds that the need to immediately implement this action to close the hook-and-line component of the commercial sector constitutes good cause to waive the requirements to provide prior notice and opportunity for public comment pursuant to the authority set forth in 5 U.S.C. 553(b)(B), as such procedures would be unnecessary and contrary to the public interest. Such procedures would be unnecessary because the rule itself already has been subject to notice and comment, and all that remains is to notify the public of the closure.

Allowing prior notice and opportunity for public comment is contrary to the public interest because of the need to immediately implement this action to protect the fishery since the capacity of the fishing fleet allows for rapid harvest of the ACL (quota). Prior notice and opportunity for public comment would require time and would potentially result in a harvest well in excess of the established quota.

For the aforementioned reasons, the AA also finds good cause to waive the 30-day delay in effectiveness of the action under 5 U.S.C. 553(d)(3).

This action is taken under 50 CFR 622.43(a) and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 et seq.

Dated: March 14, 2013.

Kara Meckley,
Acting Deputy Director,
Office of Sustainable Fisheries,
National Marine Fisheries Service.